



**DEPARTMENT OF FAIR EMPLOYMENT  
AND HOUSING  
ENFORCEMENT DIVISION  
DIRECTIVE**

**DIRECTIVE NUMBER  
900**

**DISTRIBUTION DATE  
August 13, 2003**

1. **SUBJECT: ACCEPTANCE AND PROCESSING OF RALPH CIVIL RIGHTS ACT COMPLAINTS**
2. **PURPOSE:** To set forth the procedures for accepting and processing Ralph Civil Rights Act complaints.
3. **BACKGROUND:** The Ralph Civil Rights Act provides that "All persons...have the right to be free from violence, or intimidation by threat of violence, committed against their persons or property because of their race, color, religion, ancestry, national origin, political affiliation, sex, sexual orientation, age, disability, or position in a labor dispute or because another person perceives them to have one or more of those characteristics. The identification in this subdivision of particular bases of discrimination is illustrative rather than restrictive."

The Department of Fair Employment and Housing (DFEH) enforces the Ralph Civil Rights Act through the Fair Employment and Housing Act (FEHA) which provides, at section 12930, subdivision (f)(2), for the Department to receive, investigate, and conciliate violations of Civil Code section 51.7. It also declares at Government Code section 12948 that it is an unlawful practice to deny or aid, incite or conspire in denying the rights created by Civil Code section 51.7.

4. **PROCEDURES:** The following procedures apply to all cases that allege violations of the Ralph Civil Rights Act, regardless of whether they also allege separate employment or housing violations of the FEHA.
  - A. **Intake:**
    - 1) Complainants who wish to file a complaint under the Ralph Civil Rights Act will be interviewed by a consultant.
      - (a) In those instances in which the allegations satisfy the requirements for filing a complaint and the identity of the respondent is known, the complaint will be accepted for investigation. Such complaints must be filed within one year from the date of the alleged discriminatory act.
      - (b) In those instances in which the allegations support the acceptance of a complaint, but the identity of the respondent is not known, the filing of the complaint will be postponed

until the respondent is identified. The complainant will be advised that he/she will have one year from the date the identity of the respondent is determined to file the complaint with the Department, not to exceed three years from the date the incident occurred. The complaint will not be drafted until such time as the respondent is identified.

- 2) The District Administrator is responsible for reviewing all Ralph Civil Rights Act related intake paperwork after an interview has been conducted, regardless of whether a complaint is accepted for investigation.

**B. Complaints Accepted for Investigation:**

- 1) Ralph Civil Rights Act complaints accepted for investigation will be designated for "priority" handling in accordance with Directive 202, "PRIORITY PROCESSING." The District Administrator will review the signed complaint to ensure that it is drafted properly, date stamped and designated for "priority" handling.
- 2) A copy of the complaint will be sent to the Deputy Director of Enforcement and the Director's Office.

**C. Complaints Involving Unknown Respondent:**

- 1) In those instances in which the identity of the respondent is unknown, the consultant will:
  - inform the complainant that the filing of the complaint will be postponed until the respondent is identified;
  - inform the complainant that he/she has one year from the date the identity of the respondent is determined to file the complaint with the Department, not to exceed three years from the date the incident occurred; and
  - prepare a confirming letter, DFEH-200-52, for issuance to the complainant.
- 2) The District Administrator will review the intake-related paperwork to ensure the decision not to file the complaint was appropriate.
- 3) The intake-related paperwork will be processed in accordance with established procedures and retained in a file designated as "Ralph Unknown Respondent" for a period of three years. This file will be purged each year as appropriate.
- 4) In those instances when the identity of the respondent is determined within the time frames set forth in C. above, the complaint will be accepted, signed, entered into the CMIS as a

Ralph Civil Rights Act complaint and processed in accordance with the procedures set forth in section B. above.

**D. Potentially Hazardous Investigations:**

The State Department of Justice (DOJ) may be able to assist the DFEH in instances when it would be beneficial for the case to be handled by investigators with peace officer powers and access to law enforcement systems. Circumstances that require such handling should be noted in a memorandum to the Deputy Director of Enforcement who will contact the DOJ to make the arrangement and provide the Regional Administrator and District Administrator with written instructions as to how the District Office will proceed.

**E. Service of Complaint:**

Service letter DFEH-200-03 will be included in the service package.

**F. Special Considerations:**

1) Respondent Identification:

The FEHA requires that a complaint be taken against a named respondent, which can be an individual and/or group.

2) Complaints Involving More Than One Statute:

Complainants are entitled to one remedy under the FEHA. When a particular act of harm encompasses both employment and/or housing and Ralph Civil Rights Act allegations (e.g., sexual harassment involving physical contact or assault on the job), two separate complaints will be accepted: one alleging a violation of the FEHA and another alleging a violation of the Ralph Civil Rights Act. (Refer to Attachment 1 for sample Ralph Civil Rights Act complaint language.) The FEHA complaint must be filed within one year from the date of the alleged discriminatory act and the investigation completed within one year from the date of filing.

3) Acceptance Criteria:

As in all discrimination complaints, it is necessary to establish a causal connection between the complainant's protected group and the alleged discriminatory act. There must be some reason to believe the Department will be able to prove there was a connection between the harm and the complainant's protected status if an investigation is conducted.

- 4) Civil Code section 51.7 lists specific protected group categories and qualifies them as examples that are not exclusive. DFEH will consider any alleged protected group. Decisions to accept or reject potential complaints alleging an enumerated basis will be made by the District Administrator. Decisions to accept or reject complaints alleging a non-enumerated basis will be made by the Director's Office. In such circumstances, the complaint should be drafted, but not signed by the complainant. The drafted complaint and intake notes will be forwarded to the Deputy Director of Enforcement, who, after consultation with the Director's Office, will determine whether it is appropriate to proceed with the complaint.
- 5) All cases filed primarily under the Ralph Civil Rights Act will be considered priority cases. Employment and/or housing cases that have a companion Ralph Civil Rights Act complaint will also be assigned priority status. While cases involving local law enforcement authorities will require coordinated investigative effort, consideration must be given to the statutory requirement to complete investigations within one year of the filing of the complaint. The period for investigating a complaint may be extended for two years in instances when the respondent is known, but investigative information is unavailable as a result of an ongoing police or other law enforcement investigation. When such an extension is needed, a written request is to be submitted to the Deputy Director of Enforcement detailing the circumstances of the case. No investigation will be extended beyond the one-year period without the approval of the Deputy Director of Enforcement.

5. **APPROVAL:**

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Jill C. Peterson, Interim Director

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Date

## **SAMPLE RALPH ACT LANGUAGE**

On April 15, 2003, I was physically assaulted in the course of my employment as an Office Manager. I have worked for the employer since 1997.

I believe that I was subjected to an act of violence, and threatened with violence, in violation of Fair Employment and Housing Act section 12948, which incorporates Civil Code section 51.7, because of my sex (female) based on the following reasons:

- A. On April 15, 2003, George Smith, Owner, cornered me in the supply room and told me that he would have to terminate me if I didn't perform a sex act with him.
- B. Mr. Smith twisted my arm and stated that a woman like me should know that I had to get along in the business world and that he would have to hurt me if I didn't understand that.